
**TOWN OF EDGEWOOD
ORDINANCE NO. 2012-01
AN ORDINANCE**

PROVIDING FOR A CODE OF ETHICS

WHEREAS, the governing body of the Town of Edgewood has determined as a matter of sound public policy that:

- (1) The proper administration of democratic government requires that public officials and employees must be independent, impartial, and responsible to the people;
- (2) Government decisions and policy must be formulated in the best interest of the people, and the community; and
- (3) The public must have confidence in the integrity of its government.

WHEREAS, the governing body finds the above policies will be advanced by adopting the following Code of Ethics.

THEREFORE, be it ordained by the Town of Edgewood, by and through its governing body as follows:

A. DEFINITIONS.

Whenever used in this ordinance:

- (1) "Official" means any elected or appointed official of the Town of Edgewood, including the Mayor, all members of the Council, and all members of boards, commissions and committees serving or authorized to serve on behalf of the Town of Edgewood.
- (2) "Body" means the governing body of the Town of Edgewood and any of its boards, commissions and committees.
- (3) "Valuable gift" means any gift with a monetary value in excess of \$25.00, or series of gifts received within one calendar year with an aggregate value of \$25.00 or more, excluding campaign contributions made within sixty (60) days of a municipal election.
- (4) "Contribution" means a loan, loan guarantee, gift, deposit, subscription, forgiveness of indebtedness, advance, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the election of a candidate for elected office of the Town of Edgewood. The term contribution does not include: (i) a volunteer's personal services provided without compensation or the travel or personal expenses of such a campaign worker; or (ii) the cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than two hundred dollars (\$200.00).
- (5) "Financial interest" means an interest held by an individual or the individual's relatives that is: (i) an ownership interest in business or property; or (ii) any employment or prospective employment for which negotiations have already begun.

(6) "Relative" means an individual's spouse, son, daughter, mother, father, brother, sister, grandparent, grandchild, stepparent, stepchild, stepsister, stepbrother, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, nephew, niece, first cousin, significant other, or domestic partner.

B. PROVISION FOR NEUTRAL HEARING OFFICER TO MAKE DETERMINATIONS IN CONFLICT OF INTEREST CASES.

In any case that arises because of a complaint that an official or employee has violated the terms of this ordinance, the governing body shall appoint a neutral hearing officer from the neutral panel of the American Arbitration Association to determine the merits of the complaint.

C. CONFLICTS OF INTEREST PROHIBITED.

(1) No official or employee shall knowingly:

a. Disclose or use confidential information acquired by virtue of the officer's or employee's position with the Town for the officer's or employee's or another's private gain;

b. Vote or otherwise participate in any official act involving any business or entity in which the official has a private financial interest, or any for-profit corporation on which the official serves as an officer or member of the board of directors, except an officer or employee shall not be disqualified from engaging in an official act if the financial benefit of the financial interest to the officer or employee is proportionately less than the benefit to the general public;

c. Represent private interests in any action or proceeding before the body of which the official is a member or any appeal of a decision of such body;

d. Accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to the official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the body of which the official is a member, including donors who are unidentified.

(2) No member of the governing body shall, during the term for which he or she was elected, be appointed to or selected for any paid employment with the Town other than the office to which the member was elected. Nor shall any member of the governing body, within one year of completing his or her term of office, be appointed to any paid employment which the Town created, or the emoluments of which first were established or were increased during such term; nor shall any member of the governing body during the term for which he or she was elected nor within one year thereafter, be interested directly in any contract with the Town, which was authorized by any law passed during such term.

(3) No employee participating directly or indirectly in the contracting process shall become or be, while such an employee, the employee of any person or business contracting with the Town. For a period of one year after an employee leaves Town employment, the Town shall not take favorable action on any contract that is a direct result of an official act by the employee. Former employees are prohibited from representing a person in the person's dealings with the Town on a matter in which the

former employee participated personally and substantially while an employee.

D. IMPARTIALITY.

No official shall vote or otherwise participate in his or her official capacity in any quasi-judicial decision, including but not limited to decisions regarding personnel matters, zoning appeals, or subdivision plat approval, if the official knows of facts that would cause a reasonable person to doubt the decision maker's impartiality in the matter pending before the body.

E. DISCLOSURE.

- (1) An official or employee who has a financial interest in any contract or other matter pending before him/her shall disclose such financial interest.
- (2) No official or employee shall engage in any official act directly affecting the officer's or employee's financial interest.
- (3) Disclosure of an indirect financial interest on a matter as provided by this section shall not ordinarily disqualify an official from debating and voting on the matter unless:
 - (a) A majority of the remaining members of the governing body determine that the disclosing councilor should not in propriety vote on the issue; or
 - (b) The disclosing officer voluntarily disqualifies himself or herself.
- (4) Notwithstanding the provisions of subparagraph (3), if the matter pending before the body involves a quasi-judicial decision by the body, a member who may have a conflict of interest as defined in Section D of this ordinance shall not vote or participate in said matter unless authorized to do so by a proper majority vote of the governing body. Any decision-making body may table a pending matter upon a majority vote of its members determining that this provision may apply. A matter may only be tabled until such time guidance by the governing body in conjunction with the Town Attorney may be obtained.
- (5) Within thirty (30) days of becoming a member of any Board of Directors of a for-profit corporation or of accepting outside employment, officials and employees must report to the Town Clerk and/or the employee's immediate supervisor all employment or directorships engaged in by the officer or employee. The Town Clerk shall maintain a record of this information as a public document.

F. USE OF PUBLIC PROPERTY.

No official or employee of the Town shall use property owned by the Town for personal benefit, convenience, or profit except in accordance with policies promulgated by the Council.

G. ENFORCEMENT, PENALTY, APPEAL.

- (1) Any charge of violations of this Ordinance shall be brought before the governing body by means of a verified petition, accompanied by a one hundred dollar filing fee. The governing body shall appoint a neutral hearing officer as provided by Section B upon receipt of a written finding by the Town Attorney that the facts alleged, if proven, would constitute a violation of this ordinance. The Town Attorney shall make this determination within thirty (30) days from the filing of the verified petition. A citizen may initiate such a charge by

filing the verified petition and filing fee with the Town Clerk's Office.

(2) Should the Town Attorney issue a written finding that a petition fails to allege facts that would constitute a violation of this ordinance, this finding shall constitute a final determination that the petition should be denied.

(3) Should the hearing officer find, after due investigation and a hearing, that a violation has occurred, the hearing officer may issue a public reprimand or impose a fine not to exceed five hundred dollars (\$500.00) for each violation, or both.

(4) Should the hearing officer find that the petition was filed in bad faith, the officer may order the complaining party to pay the expenses of the public official or employee who was the subject of the petition's claims, or impose a fine not to exceed five hundred dollars (\$500.00), or both.

(5) In addition to imposing such sanctions, or as an alternative thereto, when circumstances support removal from office under State Law or dismissal from employment under the Town's personnel policies, the hearing officer may recommend to the governing body that the violator be suspended, removed from office, or terminated.

(6) The governing body may, upon receipt of such a recommendation and after due hearing of the charge, order the suspension or removal/termination of any official or employee not covered under NMSA (1978), §§ 10-4-1 *et seq.*, or § 3-10-7.

(7) When the official falls within the category of public officials governed by §§ 10-4-1 *et seq.*, the governing body shall direct the Town Attorney to file an appropriate report with the secretary of state and the district attorney of Santa Fe County when the hearing officer finds or it otherwise has been established to the satisfaction of the governing body that such official:

(a) Has been convicted of any felony or of any misdemeanor involving moral turpitude;

(b) Has failed, neglected or refused to discharge the duties of the office or to discharge any duty devolving upon the officer by virtue of his office, except that when such acts provide grounds to file a complaint under Section 3-10-7, the governing body may elect instead to proceed as provided in subparagraph (8) of this section;

(c) Has knowingly demanded or received illegal fees as such officer;

(d) Has failed to account for money coming into his hands as such officer;

(e) Has committed acts of gross incompetence or gross negligence in discharging the duties of the office; or

(f) Has violated the provisions of the New Mexico Governmental Conduct Act, NMSA (1978), § 10-16-1 *et seq.* or committed any other act or acts, which reasonably could support a judicial finding of corruption in office or gross immorality rendering the incumbent unfit to fill the office.

(8) Should the hearing officer find that an official within the purview of § 3-10-7 has committed malfeasance in office, the governing body shall direct the Town Attorney to file a complaint with the District Court pursuant to that statute, unless it determines

instead to follow the procedure set out in subparagraph (7) above.

(9) An aggrieved party may appeal from any final decision of the Town Attorney, the hearing officer, or the governing body to the District Court of the First Judicial District, by filing Notice of Appeal as provided by NMSA (1978), § 39-3-1.1; provided however, that no right to appeal is created herein for an official to appeal a decision to proceed as provided by subsection (7) and (8) above, since any subsequent legal proceedings afford the affected official a full and fair opportunity to contest the allegations involved.

H. INVESTIGATION.

(1) The hearing officer or the governing body, in cases coming before it under this ordinance, may choose to ask for an investigation of allegations brought before it before making a final decision. To do this, the hearing officer may recommend to the governing body that it temporarily employ or contract with investigators. For the purposes of this section, the term "allegations" means both any formal charges filed with the Clerk and other information that, in the judgment of the hearing officer, raises a substantial question related to compliance with this Ordinance.

(2) All officials, employees, and contractors of the Town shall furnish the hearing officer, the governing body, or its investigator with requested information and records within their custody that are germane to any investigation requested by the hearing officer and authorized by the governing body. Officials, employees, and contractors also may be required to appear as witnesses in hearings under this ordinance.

I. NON-WAIVER OF PENALTIES.

Nothing herein set forth shall be construed to affect or otherwise diminish any penalties otherwise provided by law for violation of the matters set forth in this Ordinance, and nothing herein shall prevent the hearing officer or the governing body from bringing to the attention of the proper authority any alleged violation that may be subject to such other penalties.

PASSED, APPROVED and ADOPTED this 4th day of April, 2012.


Brad E. Hill, Mayor

ATTEST:


Estefanie B. Muller, CMC, Clerk-Treasurer